

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

MARY E. BARBOUR AS TRUSTEE  
FOR THE MARY E. BARBOUR  
FAMILY TRUST ONE, Derivatively  
On Behalf of BROCADE  
COMMUNICATIONS SYSTEMS,  
INC.,

Plaintiff,

vs.

GREGORY L. REYES, DAVID L.  
HOUSE, MICHAEL KLAYKO,  
RICHARD DERANLEAU, KUMAR  
MALAVALLI ANTONIO CANOVA,  
MICHAEL J. BYRD, STEPHANIE  
JENSEN, NEIL DEMPSEY, SANJAY  
VASWANI, L. WILLIAM KRAUSE,  
ROBERT R. WALKER, GLENN C.  
JONES, MICHAEL J. ROSE, SETH D.  
NEIMAN, NICHOLAS G. MOORE,  
CHRISTOPHER B. PAISLEY,  
WILLIAM K. O'BRIEN, LARRY  
SONSINI, MARK LESLIE, TYLER  
WALL, RENATO A. DIPENTIMA,  
JOHN W. GERDELMAN, KPMG,  
LLP, WILSON SONSINI GOODRICH  
& ROSATI, P.C. AND DOES 1-25,  
inclusive,

Defendants,

and

BROCADE COMMUNICATIONS  
SYSTEMS, INC., a Delaware  
corporation,

Nominal Defendant.

Case No. C 08-02029 CRB

[PROPOSED] ORDER GRANTING  
PLAINTIFF'S ADMINISTRATIVE  
MOTION TO LODGE PORTIONS OF  
AMENDED COMPLAINT UNDER  
SEAL

Dept.: 8

1 WHEREAS, Plaintiff Mary E. Barbour filed an Amended Complaint on July  
2 21, 2008;

3 WHEREAS, because the Amended Complaint contains information obtained  
4 from documents which one or more defendants have designated as confidential,  
5 Plaintiff Barbour filed an Administrative Motion to Lodge a Portion of Amended  
6 Complaint Under Seal pursuant to L.R. 7-11 and L.R. 79-5 on July 21, 2008.

7 Good cause appearing, IT IS ORDERED AS FOLLOWS:

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9 1. Plaintiff's Administrative Motion is GRANTED.

10 2. Any party that wishes for the redacted allegations in the Amended

11 Complaint to be sealed must file with the Court and serve a declaration  
12 establishing that the designated information is sealable, and must lodge  
13 and serve a narrowly tailored proposed sealing order, or must withdraw  
14 the designation of confidentiality. N.D. Cal. Civ. L.R. 79-5(d). Such a  
15 declaration must provide a "particularized showing" of "good cause" for  
16 sealing redacted allegations, and if such allegations later become used in a  
17 dispositive motion, the party seeking to keep them sealed must show a  
18 "compelling reason" to do so. *Kamakana v. City & County of Honolulu*,  
19 447 F.3d 1172, 1180 (9th Cir. 2006). *See also Reilly v. MediaNews*  
20 *Group, Inc.*, No. C 06-04332 SI, 2007 WL 196682, at \*4 (N.D. Cal. Jan.  
21 24, 2007) ("For good cause to exist, the party seeking protection bears the  
22 burden of showing specific prejudice or harm will result if no protective  
23 order is granted....") (quoting *Phillips v. Gen. Motors Corp.*, 307 F.3d  
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1 1206, 1211 (9th Cir. 2002).

- 2 3. If a party that seeks to protect the redacted allegations from public  
3 disclosure fails to file a declaration within five days, then the unredacted  
4 Amended Complaint will be made part of the public record.  
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8 IT IS SO ORDERED.

9 Dated:

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11 THE HON. CHARLES R. BREYER  
12 UNITED STATES DISTRICT JUDGE  
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